

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

ERNEST ECHOLES, Executor for the Estate of Margarite E. Martin	§	
	§	
	§	
v.	§	Civil No. 1:08CV157-HSO-JMR
	§	
UNITED STATES OF AMERICA, ET AL.	§	DEFENDANTS

ORDER PLACING CASE ON SUSPENSION TRACK

BEFORE THE COURT is Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction, or, alternatively, for Summary Judgment filed February 2, 2009 [17-1, 19-1] in the above-captioned cause. On May 6, 2009, the Court granted the Government's Motion to Dismiss for Lack of Subject Matter Jurisdiction in *Ecker v. United States of America*, Cause # 1:07cv1101. The issues presented are nearly identical in both of these cases. On May 15, 2009, Plaintiff Ecker filed his Notice of Appeal of the Court's Order to the United States Court of Appeals for the Fifth Circuit.

The Court has reviewed the pleadings on file in both cases and finds that until such time as the Fifth Circuit Court of Appeals resolves the appeal filed in *Ecker v. United States*, this case should be removed from the active docket and placed on the suspension track. All proceedings in this cause, including motion resolution, additional discovery and disclosures, are stayed until further order of the Court. Upon resolution of the appeal by the Fifth Circuit, the parties must contact Chief United States Magistrate Judge John Roper for resetting of the pertinent deadlines in this case. Accordingly,

IT IS, ORDERED AND ADJUDGED that, Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction, or, alternatively, for Summary Judgment filed February 2, 2009 [17-1, 19-1], should be and is hereby **DENIED WITHOUT PREJUDICE WITH LEAVE TO REASSERT**, if necessary, upon resolution of the appeal filed in *Ecker v. United States*. Within ten [10] days of resolution of the appeal, the parties must thereafter contact Chief United States Magistrate Judge John Roper in order for this matter to be reset on the Court's docket.

SO ORDERED AND ADJUDGED, this the 21st day of May, 2009.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE